in § 35.905 who are served by grantees who defer payment during the 18-month period ending June 30, 1979, shall make industrial cost recovery payments for that period in a lump sum by June 30, 1980, or in equal annual installments prorated from July 1, 1979, over the remaining industrial cost recovery period.

§ 35.929 Requirements for user charge system.

The Regional Administrator shall approve the grantee's user charge system and the grantee shall implement and maintain it in accordance with § 35.935–13 and the requirements in §§ 35.929–1 through 35.929–3. The grantee shall be subject to the noncompliance provisions of § 35.965 for failure to comply.

§ 35.929–1 Approval of the user charge system.

The Regional Administrator may approve a user charge system based on either actual use under paragraph (a) of this section or ad valorem taxes under paragraph (b) of this section. The general requirements in §§ 35.929–2 and 35.929–3 must also be satisfied.

(a) *User charge system based on actual use.* A grantee's user charge system based on actual use (or estimated use) of waste water treatment services may be approved if each user (or user class) pays its proportionate share of operation and maintenance (including replacement) costs of treatment works within the grantee's service area, based on the user's proportionate contribution to the total waste water loading from all users (or user classes). To insure a proportional distribution of operation and maintenance costs to each user (or user class), the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.

(b) *User charges based on ad valorem taxes.* A grantee's user charge system (or the user charge system of a subscriber, i.e., a constituent community receiving waste treatment services from the grantee) which is based on ad valorem taxes may be approved if it meets the requirements of paragraphs (b)(1) through (b)(7) of this section. If the Regional Administrator determines that the grantee did not have a dedi-

cated ad valorem tax system on December 27, 1977, meeting the requirements of paragraphs (b)(1) through (b)(3) of this section, the grantee shall develop a user charge system based on actual use under § 35.929–1(a).

(1) The grantee (or subscriber) had in existence on December 27, 1977, a system of ad valorem taxes which collected revenues to pay the cost of operation and maintenance of waste water treatment works within the grantee's service area and has continued to use that system.

(2) The grantee (or subscriber) has not previously obtained approval of a user charge system on actual use.

(3) The system of ad valorem taxes in existence on December 27, 1977, was dedicated ad valorem tax system.

(i) A grantee's system will be considered to be dedicated if the Regional Administrator determines that the system meets all of the following criteria:

(A) The ad valorem tax system provided for a separate tax rate or for the allocation of a portion of the taxes collected for payment of the grantee's costs of waste water treatment services;

(B) The grantee's budgeting and accounting procedures assured that a specified portion of the tax funds would be used for the payment of the costs of operation and maintenance;

(C) The ad valorem tax system collected tax funds for the costs of waste water treatment services which could not be or historically were not used for other purposes; and

(D) The authority responsible for the operation and maintenance of the treatment works established the budget for the costs of operation and maintenance and used those specified amounts solely to pay the costs of operation and maintenance.

(ii) A subscriber's system based on ad valorem taxes will be considered to be dedicated if a contractual agreement or a charter established under State law existed on December 27, 1977, which required the subscriber to pay its share of the cost of waste water treatment services.

(4) A user charge system funded by dedicated ad valorem taxes shall establish, as a minimum, the classes of users listed below: